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Attorney for Mario Sapp

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARIO SAPP,

Defendant.

Case No.: 2:15-CR-221-KJD-NJK

**ORDER ON:
SECOND STIPULATION TO AMEND
JUDGMENT OF CONVICTION**

IT IS HEREBY STIPULATED AND AGREED, by and between
Christopher Chiou, Acting United States Attorney, through Lisa Cartier-Giroux,
Assistant United States Attorney, counsel for the United States of America, and Lisa
Rasmussen, counsel for Mario Sapp as follows:

1. Mr. Sapp was originally arrested by LVMPD on July 15, 2015 and he was
taken to the Clark County Detention Center where charges were filed against him for
assault with a deadly weapon, owner of a firearm by a prohibited person and
discharging a gun where persons might be endangered. This was case number
15F10432X.

2. Thus, Mr. Sapp was originally in primary state custody.

1 3. Mr. Sapp was indicted in the instant case in July 28, 2015. [ECF 1.] All
2 charges in this case stem from the same incident that were the subject of the July 15,
3 2015 Justice Court case.

4 4. Mr. Sapp appeared in this Court on July 28, 2015 pursuant to a writ of
5 habeas corpus ad prosequendum. [ECF 5, 6, 7 and 8.] Mr. Sapp was detained pending
6 trial in the instant case. [ECF 8.]

7 5. As of July 28, 2015, Mr. Sapp was in primary state custody and secondary
8 federal custody.

9 6. The Justice Court case was dismissed on November 19, 2015. This
10 rendered Mr. Sapp in primary federal custody with his custody start date reverting
11 back to the first date he was detained in the instant case, July 28, 2015.

12 7. On January 13, 2016, Mr. Sapp was indicted in state court for the same
13 charges relating back to his Justice Court case and that is case number C-16-311945-1.

14 8. Mr. Sapp, then in primary federal custody, was brought over to state court
15 where he was arraigned on February 3, 2016 before being returned to the Pahrump
16 detention facility.

17 9. On May 2, 2017, Mr. Sapp was sentenced in the instant case to a total
18 sentence of 235 months. Mr. Sapp was, at the time he was sentenced, in primary federal
19 custody.

20 10. On June 6, 2018, Mr. Sapp was sentenced to one count of assault with a
21 deadly weapon in the state court case (C-16-311945-1), an act that stems from the same
22 facts that are the subject of the instant case. His state court sentence was to be run
23 concurrent to his sentence in the instant case and the Judgment of Conviction references
24 the instant case by number. He was given also given 882 credit for time served.

25 11. During Mr. Sapp's pending appeal in the Ninth Circuit (Docket number
26 17-10457), the parties agreed to vacate Mr. Sapp's convictions and remand his case to
27

1 this Court. At the time this occurred, Mr. Sapp was an inmate at U.S. Penitentiary
2 Victorville, in California. [ECF 201]. A writ of habeas corpus ad prosequendum was
3 issued to return Mr. Sapp to the district of Nevada for his case and to set a new trial
4 date in August 2019. [ECF 203, 205.]

5 12. In November 2020, the parties resolved this matter by way of binding plea
6 agreement. [ECF 223.]

7 13. Mr. Sapp was sentenced to 90 months imprisonment on May 18, 2021 and
8 the Judgment of Conviction was entered on May 21, 2021. [ECF 236.]

9 14. The parties have since learned in June 2021 that Mr. Sapp's projected
10 release date, according to the Bureau of Prisons, is November 2024. This was not the
11 intent of the parties in arriving at the resolution of Mr. Sapp's case, the intent was that
12 he would be near the end of his sentence when he was sentenced in May 2021, not three
13 years away from the end of his sentence.
14

15 15. In trying to figure this out, both parties had communications with the
16 time computation personnel for BOP in Grand Prairie, Texas. It appears that the
17 vacating of Mr. Sapp's sentence in 2019 and then the re-sentence in 2021 have
18 complicated the computation of Mr. Sapp's federal court sentence because of his state
19 court sentence which would have otherwise run concurrent to his sentence in this case
20 because it broke the chain (or order) of events when his federal sentence was vacated.

21 16. Grand Prairie advised the parties in June 2021 that the intent of the
22 parties, that Mr. Sapp will be near the end of his federal sentence, will be achieved if the
23 Judgment in this case is amended to reflect that it is to be "concurrent to his state court
24 case, case number C-16-311945-1."

25 17. Accordingly, the parties requested, on June 30, 2021 that the court amend
26 the Judgment of Conviction in this case to reflect that Mr. Sapp's 90-month sentence be
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1 concurrent to his already expired 48 to 120 month sentence in case number C-16-311945-
2 1 of the Eighth Judicial District Court. [ECF 239.]

3 18. The Court entered an Amended Judgment pursuant to the Stipulation of
4 the parties on July 12, 2021 (ECF 241).

5 19. When the Amended Judgment of Conviction reached the Bureau of
6 Prisons, it did alter Mr. Sapp's release date, but only by 12 days. The BOP website now
7 lists Mr. Sapp's release date as October 26, 2024, instead of early November 2024.
8

9 20. So, the parties had to meet and confer again to figure out how to solve this
10 problem. The government took the lead on speaking to an attorney for the Bureau of
11 Prisons to figure out how the intent of the parties can be accomplished.

12 21. The consensus is that an adjustment pursuant to USSG §5G1.3(b)(1) is
13 required for the parties to achieve their negotiated intent with regard to Mr. Sapp's
14 anticipated release date.

15 22. Accordingly, the parties request that the Court enter a Second Amended
16 Judgment of Conviction for Mr. Sapp adjusting his sentence from 90 months to 49
17 months. The parties further recommend that the Court make no reference to the
18 previous state sentences. This will leave Mr. Sapp with a release date of November
19 2021, which was, and still is, the intended result of the parties.

20 23. The parties do not believe a hearing is necessary unless this Court requires
21 a hearing for the purpose of entering an Amended Judgement.

22 24. Mr. Sapp expressly waives his right to have a hearing for the purpose of
23 amending his Judgment of Conviction in the manner requested herein.
24

25 ...

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1 ...

2 25. This second stipulation and joint request to amend the judgment of
3 conviction is made because it properly reflects the intent of the parties and it is the
4 product of much effort on the part of the parties and the Bureau of Prisons to get this
5 right.
6

7 IT IS SO STIPULATED.

8 Dated: August 16, 2021

9 **The Law Offices of Kristina Wildeveld**
10 **& Associates**
11 **Nevada**

12 */s/ Lisa A. Rasmussen*

13 _____
14 By: Lisa A. Rasmussen, Esq.
15 Counsel for Mario Sapp

Christopher Chiou
Acting United States Attorney D.

12 */s/ Lisa Cartier-Giroux*

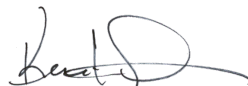
13 _____
14 By: AUSA Lisa Cartier-Giroux
15 Counsel for Plaintiff USA

16
17 **ORDER**

18 Pursuant to the stipulation of the parties, and good cause appearing,
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21 IT IS HEREBY ORDERED that the request to enter a Second Amended Judgment
22 is hereby granted. The court will amend the Judgment of Conviction consistent with
23 this Stipulation.

24 Dated: 8/16/2021

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26 _____
27 The Honorable Kent J. Dawson
28 United States District Judge